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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,630

01/24/2007

Brian David Ferguson

U 016113-1

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7590

02/26/2008

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EXAMINER

LEGESSE, NINI F

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,630	Applicant(s) FERGUSON ET AL.	
	Examiner Nini Legesse	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/15/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The abstract of the disclosure is objected to because the abstract needs to be on a separate page by itself. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hait (US Patent No. 4,664,373).

Hait discloses a training device comprising a handle (upper portion of 51 including 14), element 16 is considered as a head, element 12 is considered as a hollow reservoir, as shown on Fig. 2 the head and the handle are removable. Please note that examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). Apparatus claims must be structurally distinguishable from the prior art. SEE MPEP 21114.

Claims 1, 2, 3, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Derworp et al. (US Patent No. 4,743,016).

Van discloses a training device comprising a handle (20), element 20 is considered as a head, element 20 is considered as a hollow reservoir, as shown on Fig.

5, the head and the handle are removable. Please note that examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a).

Apparatus claims must be structurally distinguishable from the prior art. SEE MPEP 21114.

Claims 1, 2, 8, 9, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Boland (US Patent No. 6,102,810).

Boland discloses a training device comprising a handle, element 14 is the head, element 12 is considered as a hollow reservoir, as shown on Fig. 2 the head and the handle are considered as being removable from the reservoir. Element 30 is a strap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabie (US Patent No. 5,527,038) in view of Dirksing et al. (US Patent No. 4,819,935).

Mabie discloses a golf device comprising a handle (11), a head (13), and a hollow reservoir (14). However Mabie fail to teach the head and the handle to be removable. The device also fails to provide threaded features. However, these features that lack form Mabie are not new in training devices. Dirksing is one reference that

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teaches them (for example see Fig. 5). Thus it would have been obvious to one of ordinary skill in the art to provide the Mabie device with heads and handles that are removable and with threaded features in order to provide an adjustable training device that is easy to manufacture.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Stewart (US Patent No. 4,588,191).

The references as disclosed above fail to teach the use of strap. However the use of strap is not new and Stewart is one reference that teaches it (see Figs. 2-3). Thus it would have been obvious to one of ordinary skill in the art to modify the Mabie device to include strap so that the conventional club that is used in the device could be used in a regular golf game by easily removing the practice weight element.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nini Legesse/

Primary Examiner, Art Unit 3711